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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

ALI, MOHAMMAD M

ART UNIT	PAPER NUMBER
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3744

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04/27/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/577,269	Applicant(s) ISHII ET AL.	
	Examiner MOHAMMAD M. ALI	Art Unit 3744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 February 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 October 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 11 is rejected under 35 USC 101 because the claimed invention is directed to non-statutory subject matter. The contents of the claim are an abstract and nothing new in it.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6, 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Furubayashi (US 6,427,455 B1). Furubayashi discloses a cooling device comprising a cooler provided in an interior that is insulated adiabatically from an exterior, a cooling fan (8a) disposed on a front surface of the cooler (7), and a cooling chamber that is defined by a space in front of the cooling fan (8a) and in which an object (38) to be cooled is placed, the cooling device drawing cooled air (see arrow) behind the cooling fan (8a) with the fan and allowing the cooled air to flow into the cooling chamber, wherein $a/D = 1/2$ to $1/4$ is satisfied, where a indicates a dimension of a first gap between the cooler (7) and the cooling fan (8a) along a front-back direction and D indicates a diameter of the cooling fan, a dimension of a second gap (13)

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between the cooler (7) and a wall surface on a back surface side of the cooler (7) is set to be larger than 50 mm, (see column 8, lines 35-39, the range being between 20-50 mm is near to larger than 50mm which is obvious) and an air pressure at a point located 100 mm forward of a point of rotational center of the cooling fan is allowed to oscillate or pulse by adjusting a number of revolutions of the cooling fan (8a) (being functional recitation of function of the fan to create such pressure, the fan of Furubayashi is capable to create such pressure). Regarding, installation of fan by setting a distance with respect to the diameter of the fan as ($a/D = 1/2$ to $1/4$) is nothing but rearranging parts or reorganizing it. Since it has been held that rearranging parts of an invention involves only routine skill in the art. (See *In re Japikse*, 86USPQ 70).

Further, it is mention that a change in size (varying the distance of "a" with respect fan diameter "D") is generally reorganized as being within the level of an ordinary skill in the art. *In re Rose*, 105 USPQ 237 (8-9, 27-28,33 and 38 CCPA 1995). Form the above; it is evident that the above claims are obvious over Furubayashi.

Further, it is mentioned that Furubayashi discloses similar ratio of a/D , may be exactly the same ratio or a very close to the ratio of claimed invention because Furubayashi already disclose the distance between the back surface of cooler (7) and the wall surface is 50 mm which is very close to the dimension of claimed invention and Figs of Furubayashi is also almost same as the Figs of the Applicants. However, Applicants may set the said ratios and distance to obtain optimum values. It is further mentioned that it has been held that discovering an optimum value of a result effective

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variable involves only routine skill in the art. In re Boesch, 617 F.2d 272,205 USPQ 215 (CCPA 1980).

In view of the above, the claims 1-6 and 8-12 are obvious over Furubayashi.

Regarding claim 1, the above disclose obviously meets the limitations of claim 1.

Regarding claim 2, the contents of the claim 2 is the function recitation of the function of fan set at a particular speed which can be done by an ordinary skill of art since it falls within the realm of rearranging parts; an ordinary skill of art is able to do it because it involves only a routine skill in the art as mentioned above.

Regarding claim 3, the recitation, "the number of revolutions of the cooling fan is adjusted so that resonance occurs in the pressure oscillation or pressure pulsation when the dimension a is varied" is the functional recitation of functions of fan on a varying distance a from the evaporator surface. Adjusting the distance of a fan from its evaporator surface is only routine skill of art and can be done by an ordinary skill of art as explained above.

Regarding claim 4, Furubayashi discloses that a lateral surface of the cooler (50b/33) is covered with a control plate so as to prevent substantially air from moving in and out through the lateral surface of the cooler (50b/33). See Figs 5 and 11.

Regarding claim 5, the number of revolution of cooling fan of Furubayashi is adjustable because this feature is well within the knowledge of an ordinary skill of art.

Regarding claim 6, the number of revolution per minute is an well known feature in the art and ordinary skill of art is able to adjust or fix any number of revolution per

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minute including 1200 to 2100 rpm. The adjusting rpm of a fan is also involves only routine skill of in the art.

Regarding claim 8, Furubayashi discloses that the plurality of the coolers are present, the coolers are provided so as to face each other with the cooling chamber interposed there between, and the cooling fans provided respectively on the front surfaces of the facing coolers are offset so as not to face each other (See Figs 4, 5 and 9..

Regarding claim 9, Furubayashi discloses that a number of the cooling fans provided on the front surface of the cooler is more than one, and when the front surface of the cooler is divided virtually into a plurality of blocks, the cooling fans are arranged on the front surface corresponding to blocks selected in a staggered manner. See Figs 4, 5 and 9.

Regarding claim 10, the disclosure, "a rotation of the cooling fan is set to be counterclockwise in the Northern Hemisphere and clockwise in the Southern Hemisphere" is related with a natural phenomena and the same feature is true for each and every fan including the fan of Furubayashi. Also setting a fan in a clockwise or counterclockwise is only routine skill in the art.

Regarding claim I1, the disclosure, "both of a maximal value of a frequency (Hz) of the pressure oscillation or pressure pulsation and a maximal value of an amplitude relative to pressure (T/P_{ave}) are present in a vicinity of $a/D = 1/4$ " is an abstract and this is true for every such device.

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Regarding claim 12, Furubayashi discloses that the cooling device is a sealed interior cooling device, a spiral freezer cooling device provided with a conveyor for conveying the object to be cooled spirally or a tunnel freezer cooling device provided with a conveyor for conveying the object to be cooled horizontally. See Fig. 4.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Furubayashi in view of Symko et al (US 6,574,968). Furubayashi discloses the invention substantially as claimed as stated above except vibration driving portion. Symko et al teach the use of vibration driver (18) in a refrigeration system for the purpose of optimizing the efficiency of a refrigerator by reducing the size of the refrigerator. See abstract and first few lines of the background. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the cooling device/refrigerator of Furubayashi in view of Symko et al such that a vibration driver could be provided in order to maximize the efficiency of the refrigerator.

Response to Arguments

Applicant's arguments, see remarks pages 5-6, filed 02/25/09, with respect to the rejection(s) of claim(s) 1-12 under 112 rejections have been fully considered and are

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persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of the new prior art as explained.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MOHAMMAD M. ALI whose telephone number is (571)272-4806. The examiner can normally be reached on maxiflex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl J. Tyler can be reached on 571-272-4808. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mohammad M Ali/
Primary Examiner, Art Unit 3744